

**INTEGRATED COMMUNICATIONS GROUP CORPORATION**

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April 15, 1996

William F. Caton  
Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Comments on Proposed Rulemaking on Rules for Auctioning the Remaining  
Broadband PCS Licenses (WT Docket 96-59, GN Docket 90-314)

Dear Mr. Caton:

We are participating in the C block auction currently underway. We wish to comment on the FCC Notice of Proposed Rulemaking. Our main points are:

- the threshold definition of small business should be \$11 million and a new category with increased bidding credits of 40% should be created for very small businesses with a \$5 million threshold
- installment payment plans and other benefits should be available to designated entities in the D and E blocks with the most favorable terms for very small businesses
- if the D, E & F block licenses are auctioned concurrently DE's should be able participate in each block with access to bidding credits
- partitioning of licenses should be allowed if consummated with small DE's with partitioning rules adopted concurrent with the auction rules
- the attribution rules of the Sixth Report & Order should be rescinded and the attribution rules articulated in the Fifth Report & Order should be reinstated
- the rule on the limitations on licenses #24,710 should be changed to 25 million pops

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We recommend a tiered definition of the size standard for small businesses. Very small for firms with average annual gross sales of less than \$5 million; and small for firms with average annual gross sales of less than \$11 million. Our recommendations on a new very small size standard is race and gender neutral yet inclusive of most women and minority owned firms. In light of available information that 99% of women as well as minority owned firms are \$1 million or smaller, coupled with the incomplete record developed by the FCC to pass the strict scrutiny standard of judicial review, this very small size standard would be responsive to the US Congress' directive to the FCC expressed in Section 309 Business Administration (SBA). The SBA size standards for businesses in telecommunications include:

- radiotelephone communications, industry (SIC Code) 4812 - \$5 million
- services not elsewhere classified, e.g. PCS, (SIC Code) 4988 - \$11 million

It is imperative that the FCC adopt a size standard for the 10 MHz auctions much smaller than the \$40 million standard used in the 30 MHz licenses. Adoption of a tiered size standard of \$5 million for very small and \$11 million for small sends the message that the FCC is not turning its back on minorities and women for the sake of race and gender neutrality. By the same token, the FCC would fulfill the intent of Congress, and Chairman Reed Hundt's stated policy on finding creative solutions to ensure minority opportunity. The US Congress directed the FCC to remedy the serious imbalance in the participation by certain groups, especially minorities and women. Congress' objectives are set forth in Section 309(j)(3)(B), of promoting economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small business, rural telephone companies, and businesses owned by members of minority groups and women.

Past methods used by the FCC to allocate licenses have not opened doors for meaningful participation by small businesses including businesses owned by minorities and women. FCC Chairman Reed F. Hundt testified before the House Minority Enterprise Subcommittee on May 20, 1994, and stated, "...in light of this serious underrepresentation, there 'remains a fundamental obligation for both Congress and the FCC to examine new and creative ways to ensure minority opportunity.'"<sup>1</sup> The FCC has stated

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<sup>1</sup> Testimony of Reed E. Hundt, Chairman, Federal Communications Commission before the House Minority Enterprise Subcommittee, May 20, 1994

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that, "The record indicates that, in the absence of meaningful efforts to assist designated entities, there would be good reason to think that participation by those groups, particularly businesses owned by women and minorities, would continue to be severely limited."<sup>2</sup>

Testimony was presented to the FCC at its En Banc hearing on spectrum policy held March 5, 1996, reminding the FCC of its responsibility to ensure full participation of small businesses and companies owned by women and members of minority groups. Participation by businesses owned by minorities and women are severely limited even in the small "entrepreneurs" auction designed to maximize their participation.

The FCC was alerted to this likely outcome before the final rules were adopted. Several of our stockholders submitted to the Commission evidence supporting a petition for reconsideration of the Competitive bidding Sixth Report and Order. Additional entities also petitioned the FCC to use a small size standard such as \$5 million. They included the National Council of La Raza, the League of United Latin Americans, the American Hispanic Owned Radio Association, and Ondas Communications Services Inc.. In addition, letters in support of a \$5 million size standards were submitted by the Chicano Federation of San Diego County, the Asian Business Association of San Diego County, the CDC Small Business finance Corporation, and San Diego Councilman Juan Vargas.

The FCC should require that an entity be in existence at least 6 months before the start of the broadband auctions.

The FCC rules on attribution from the Sixth Report & Order should be rescinded and the rules from the Fifth Report & Order should be reinstated to eliminate abuses and retain the integrity of the intent of Congress and create meaningful opportunity for very small and small business entities.

The results of the C block auction are the most current statistical evidence showing limited access for minorities to public assets controlled by the FCC.

To increase the opportunities for minorities and women as well as disseminating licenses among a wide variety of applicants, the FCC should allow PCS licenses to partition their licenses. The public interest would be served if PCS spectrum partitioning is allowed under limited conditions. If partitioning was limited to very small and small firms under

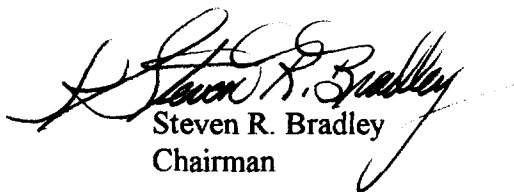
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<sup>2</sup> Competitive bidding Fifth Report and Order adopted June 29, 1994, #110, page 48

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\$11 million, and additional race and gender neutral solution would exist to address the need of promoting economic opportunity and competition for minorities, women and other diverse entities as well widely disseminating valuable public assets.

Sincerely yours,



Steven R. Bradley  
Chairman

Encl.: Standard Industrial Classification Manual, 1987, pp. 282-283

Industry  
Group  
No.      Industry  
No.

483

**RADIO AND TELEVISION BROADCASTING STATIONS****4832 Radio Broadcasting Stations**

Establishments primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Also included here are establishments primarily engaged in radio broadcasting and which produce radio program materials. Separate establishments primarily engaged in producing radio program materials are classified in Services, Industry 7922.

Radio broadcasting stations

**4833 Television Broadcasting Stations**

Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational, and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials. Separate establishments primarily engaged in producing taped television program materials are classified in Services, Industry 7812. Establishments primarily engaged in furnishing cable and other pay television services are classified in Industry 4841.

Television broadcasting stations

484

**CABLE AND OTHER PAY TELEVISION SERVICES****4841 Cable and Other Pay Television Services**

Establishments primarily engaged in the dissemination of visual and textual television programs, on a subscription or fee basis. Included in this industry are establishments which are primarily engaged in cablecasting and which also produce taped program materials. Separate establishments primarily engaged in producing taped television or motion picture program materials are classified in Services, Industry 7812.

Cable television services  
Closed circuit television services  
Direct broadcast satellite (DBS) services  
Multipoint distribution systems (MDS)  
services

Satellite master antenna systems  
(SMATV) services  
Subscription television services

489

**COMMUNICATIONS SERVICES, NOT ELSEWHERE CLASSIFIED****4899 Communications Services, Not Elsewhere Classified**

Establishments primarily engaged in furnishing communications services, not elsewhere classified. Establishments primarily engaged in providing on-line information retrieval services on a contract or fee basis are classified in Services, Industry 7375.

Radar station operation  
Radio broadcasting operated by cable  
companies  
Satellite earth stations

Satellite or missile tracking stations,  
operated on a contract basis  
Tracking missiles by telemetry and  
photography on a contract basis

## Major Group 48.—COMMUNICATIONS

### *The Major Group as a Whole*

This major group includes establishments furnishing point-to-point communications services, whether intended to be received aurally or visually; and radio and television broadcasting. This major group also includes establishments primarily engaged in providing paging and beeper services and those engaged in leasing telephone lines or other methods of telephone transmission, such as optical fiber lines and microwave or satellite facilities, and reselling the use of such methods to others. Establishments primarily engaged in furnishing telephone answering services are classified in Services, Industry 7389.

Industry Group No.	Industry No.
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#### 481 TELEPHONE COMMUNICATIONS

##### 4812 Radiotelephone Communications

Establishments primarily engaged in providing two-way radiotelephone communications services, such as cellular telephone services. This industry also includes establishments primarily engaged in providing telephone paging and beeper services and those engaged in leasing telephone lines or other methods of telephone transmission, such as optical fiber lines and microwave or satellite facilities, and and reselling the use of such methods to others. Establishments primarily engaged in furnishing telephone answering services are classified in Services, Industry 7389.

Beeper (radio pager) communications services  
Cellular telephone services

Paging services: radiotelephone  
Radiotelephone communications

##### 4813 Telephone Communications, Except Radiotelephone

Establishments primarily engaged in furnishing telephone voice and data communications, except radiotelephone and telephone answering services. This industry also includes establishments primarily engaged in leasing telephone lines or other methods of telephone transmission, such as optical fiber lines and microwave or satellite facilities, and reselling the use of such methods to others. Establishments primarily engaged in furnishing radiotelephone communications are classified in Industry 4812, and those furnishing telephone answering services are classified in Services, Industry 7389.

Data telephone communications  
Local telephone communications, except radio telephone  
Long distance telephone communications

Voice telephone communications, except radio telephone

#### 482 TELEGRAPH AND OTHER MESSAGE COMMUNICATIONS

##### 4822 Telegraph and Other Message Communications

Establishments primarily engaged in furnishing telegraph and other nonvoical message communications services, such as cablegram, electronic mail, and facsimile transmission services.

Cablegram services  
Electronic mail services  
Facsimile transmission services  
Mailgram services  
Photograph transmission services  
Radio telegraph services

Telegram services  
Telegraph cable services  
Telegraph services  
Teletypewriter services  
Telex services